

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DEBORAH L. ROBERTS,**

**Appellant,**

**v.**

**MICHAEL L. ROBERTS,**

**Respondent.**

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DOCKET NUMBER WD76679

**Date: June 3, 2014**

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Appeal from:  
Jackson County, MO Circuit Court  
The Honorable Twila K. Rigby, Judge

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Appellate Judges:  
Division Two: Victor C. Howard, P.J., Alok Ahuja and Mark D. Pfeiffer, JJ

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Attorneys:  
Paul E. Evans, Blue Springs, MO, for appellant.  
Jeffrey S. Royer, Blue Springs, MO, for respondent.

# MISSOURI APPELLATE COURT OPINION SUMMARY

## COURT OF APPEALS -- WESTERN DISTRICT

DEBORAH L. ROBERTS

Appellant,

v.

MICHAEL L. ROBERTS,

Respondent.

WD76679

Jackson County, MO

Deborah Roberts (“Wife”) and Michael Roberts (“Husband”) were divorced in 1990, after almost fourteen years of marriage. Husband had been employed with the federal government during the marriage. The dissolution decree awarded to Wife “[f]ifty percent (50%) of the Husband’s Civil Service Retirement System ‘annuity.’”

Husband continued his federal employment for twenty-three years following the dissolution of the parties’ marriage. When he retired in 2013, the federal personnel office informed him that it interpreted the 1990 dissolution decree to award Wife 50% of Husband’s *entire* pension, including the pension rights Husband earned during his post-dissolution employment.

Husband filed a motion asking the circuit court to enter a qualified domestic relations order or “QDRO,” specifying that Wife was entitled to one-half of only that portion of Husband’s pension benefits which were earned during the parties’ marriage, and which therefore constituted *marital* property. The trial court entered the QDRO Husband requested. Wife appeals.

**AFFIRMED.**

Division Two holds:

Only the portion of retirement benefits which are earned during the marriage are considered to be marital property subject to division under § 452.330, RSMo. A trial court ordering the division of property in a dissolution proceeding does not have the authority under § 452.330, RSMo, to order disposition of *nonmarital* property. Under § 452.325, RSMo, however, the parties may agree to a property division which awards one spouse a share of the other spouse’s nonmarital property; so long as the agreement is not unconscionable, the trial court must incorporate the parties’ agreement into the dissolution decree.

The 1990 dissolution decree adopted the property division to which the parties had voluntarily agreed. Therefore, the parties were free to agree to award Wife a share of Husband's nonmarital, post-dissolution retirement benefits. Construing the decree as a whole, however, we conclude that they did not do so in this case. Multiple provisions of the dissolution decree specify that the parties' separation agreement only divided *marital* property then in existence, and that the parties specifically disclaimed any right to the other party's *nonmarital* property. In these circumstances, the trial court was required to enter a QDRO which limited Wife's share to 50% of the *marital* portion of Husband's pension, meaning the portion of Husband's pension benefits which he earned due to his employment during the marriage.

Before: Division Two: Victor C. Howard, P.J., Alok Ahuja and Mark D. Pfeiffer, JJ

Opinion by: Alok Ahuja, Judge

**June 3, 2014**

<b>THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.</b>
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